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10/721,726	11/25/2003	Gary P. Raden	MS306092.01	5768
27195 7590 09/27/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER JEAN GILLES, JUDE	
			ART UNIT 2143	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/721,726

Applicant(s)

RADEN ET AL.

Examiner

Jude J. Jean-Gilles

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This office action is responsive to Reply filed on 06/22/2007.

### ***Response to Amendment/Arguments***

2. Claims, 1-41 remain pending in the application with claims 38 cancelled herein. Claims 1-41 represent a method and apparatus for "SYSTEMS AND METHODS FOR STATE MANAGEMENT OF NETWORKED SYSTEMS."

Applicant's arguments with respect to the independent claims have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the new ground of rejection as explained here below. Applicants' amendments to the independent claims are not properly made and as to perhaps place them in condition for allowance.

The dependent claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated.

In response to Applicant's arguments, 37 CFR § 1.11(c) requires applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must show the amendments avoid such references or objections."

Applicant's Request for Reconsideration filed on 06/22/2007 has been carefully considered but is not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main point of contention:

Applicant contends that the subject claims relate to network administration and control. A system can gather data and provide information regarding a system's health, performance, and/or utilization by using a computing entity. In particular, independent claim 1 (and similarly amended claims 28 and 34) recites a system comprising a *component that obtains system data corresponding to a plurality of system components that reside on the networked system*. Ikeda *et al.* fails to disclose or suggest the claimed subject matter.

It is the position of the Examiner that Ikeda in detail teaches the limitations of the above mentioned claims. However, in view of Applicant's remarks, The Office respectfully submits new rejection below which addresses this point of contention.

Examiner notes that applicant has failed in presenting claims and drawings that delineate the contours of this invention as compared to the cited prior art. Applicant has failed to clearly point out patentable novelty in view of the state of the art disclosed by the references cited that would overcome the 103(a) rejections applied against the claims, the rejection is therefore sustained.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-9, 11-13, 15, 18-25, 28-37, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al (Ikeda), Patent No. 2003/0063571 A1 in view of Gauvin et al (Gauvin) U.S. Patent No. 7197489 B1.

Regarding **claim 1**, Ikeda discloses the invention substantially as claimed. Ikeda teaches a system that facilitates determining a state of a networked system, comprising: a component that obtains system data corresponding to a plurality of system components (0008); and an aggregator that analyzes at least a subset of the system data and generates an output corresponding to a state of a subset of the plurality of system components (0035-0037; 0135; 0170, 0200; 0245; also see fig. 7, item 12).

However, Ikeda does not disclose the details of a component that obtains system data corresponding to a plurality of system components "that reside on the networked system".

In the same field of endeavor, Gauvin discloses a mechanism to gather data corresponding to system component that resides in a storage area network (see Gauvin, abstract, column 7, lines 55-67; column 8, lines 1-13). These techniques are used to manage objects in a network, facilitating monitoring of components conditions with the network.

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated the network monitoring teachings of Gauvin with the teachings of Ikeda, for the purpose of improving the ability of a network to provide a way to collect data regarding configuration and state of the

components within the network as stated by Gauvin (see summary of invention). By this rationale, **claim 1** is rejected.

Regarding **claims 2-9, 11-13, 15, 18-25, and 28-39** the combination Ikeda-Gauvin discloses:

2. The system of claim 1, additionally comprising a remote access component that provides a user with remote access to the output (see Ikeda; fig. 45, item 10\_4).

3. The system of claim 1, the component comprising a polling component that polls the plurality of system components to obtain the system data (see Ikeda; 0046; note the function of the route analyzer in performing the polling based on connection state information; 0244).

4. The system of claim 1, the aggregator comprising a distributed database engine (see Ikeda; topology collector 11).

5. The system of claim 1, the aggregator aggregates the system data in accordance with predetermined rules (see Ikeda; 0045).

6. The system of claim 5, the predetermined rules comprising aggregation of data within a single system (see Ikeda; 0013; *note that collecting opposed topology information*

*of a node directly or indirectly routed to the node to which the network topology collection device itself belongs entails collection of more than one system).*

7. The system of claim 5, the predetermined rules comprising aggregation of data with a plurality of systems (see Ikeda; fig. 1B; 0014-0018).

8. The system of claim 1, at least one of the plurality of system components comprising a system component that sends data to the component unprompted (see Ikeda; 0082).

9. The system of claim 8, the unprompted system component utilizes at least one selected from the group consisting of unicasting, multicasting, and broadcasting techniques to send data to the component (see Ikeda; 0082).

11. The system of claim 1, the system components comprising at least one selected from the group consisting of a running process, a data source, and a data log (see Ikeda; 0009).

12. The system of claim 1, the output comprising hidden information obtained via data mining of aggregated system data (see Ikeda; 0009).

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13. The system of claim 12, the hidden information comprising at least one selected from the group consisting of system diagnosis information and system prognosis information (see Ikeda; 0012-0018).

15. The system of claim 1, the output comprising a status report (see Ikeda; 0009).

18. The system of claim 1, the output utilized to detect faulty errors in the networked system (see Ikeda; 0065, 0266).

19. The system of claim 1, the output utilized to provide automatic system updates in response to the state of the subset of the plurality of system components (see Ikeda; 0011).

20. The system of claim 1, the output comprising at least one system control parameter (see Ikeda; 0011).

21. The system of claim 20, the system control parameter comprising at least one selected from the group consisting of a load shed command and a load balancing command (see Ikeda; 0056-0059; *note that using such command is inherent for the purpose of accomplishing the objective of this invention*).



22. The system of claim 20, the system control parameter comprising a security preservation action to maintain security of at least one networked system (see Ikeda; 0004).

23. The system of claim 20, the system control parameter comprising a remedial action to maintain operation of at least one networked system (see Ikeda; 0013-0015).

24. The system of claim 1, the state comprising at least one selected from the group consisting of a previous state, a current state, and a future state (see Ikeda; 0035-0037; 0135).

25. The system of claim 1, the state comprising a health status state of a networked system comprising the plurality of components (see Ikeda; 0035-0037; 0135; 0170, 0200; 0245).

28. A method for facilitating state determination of a networked system, comprising: obtaining system data corresponding to a plurality of system components; aggregating, according to predetermined rules, at least a portion of the system data corresponding to at least a subset of the plurality of system components; analyzing at least a portion of the aggregated system data; and generating an output corresponding to a state of the subset of the plurality of system components (see Ikeda; 0008; 0035-0037; 0135; 0170, 0200; 0245; also see fig. 7, item 12).

29. The method of claim 28, further comprising: sending the output to a selectable recipient at a selectable rate in a selectable manner (see Ikeda; 0035-0037; 0135;0170, 0200; 0245).

30. The method of claim 28, further comprising: customizing the output according to a set of rules determined by a user (see Ikeda; 0035-0037; 0135;0170, 0200; 0245).

31. The method of claim 28, further comprising: controlling an aspect of the networked system in response to the output corresponding to the state of the subset of the plurality of system components (see Ikeda; 0035-0037; 0135;0170, 0200; 0245).

32. The method of claim 31, the aspect comprising an operational system parameter responsible for maintaining operation of the networked system (see Ikeda; 0035-0037; 0135;0170).

33. The method of claim 31, the aspect comprising software updating to automatically maintain proper operation of the networked system (see Ikeda; 0035-0037; 0135;0170).

34. A system that facilitates determining a state of a networked system, comprising: means for obtaining system data corresponding to at least a subset of a plurality of system components; and means for aggregating at least a portion of the obtained data;

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and means for analyzing at least a subset of the portion of the obtained data to generate an output corresponding to a state of the subset of the plurality of system components (see Ikeda; 0035-0037; 0135;0170, 0200; 0245; also see fig. 7, item 12).

35. A system that employs at least one system of claim 1 to provide a remotely accessible state determination service (see Ikeda; fig. 7).

36. The system of claim 35, the state determination service comprising an aggregation, analysis, and control service for at least one networked system pertaining to at least one system administrator (see Ikeda; 0035-0037; 0135;0170, 0200; 0245).

37. A method that employs the method of claim 28 in a multiple networked system service environment to determine and predict common errors across at least a subset of the multiple systems (see Ikeda; 0035-0037; 0170, 0200).

39. A computer readable medium having stored thereon computer executable components of the system of claim 1 (see Ikeda; fig. 7)

5. **Claims 10, 14, 16, 17, 26, 27, 40, and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda and Gauvin in view of Anerousis et al (Anerousis) U.S. Patent No. 6,393,472 B1.

**Regarding claim 10:** Ikeda-Gauvin discloses the invention substantially as claimed. Ikeda teaches the system that facilitates determining a state of resource in a network system, but fail to specifically disclose a server as a component of the system.

In the same field of endeavor, Anerousis discloses an " Referring to FIG. 6, the Management Aggregation and Visualization Server (MAVS) 1 is a management agent designed to handle aggregations of network management information. Every AMO must be instantiated within a MAVS" [see Anerousis; *fig. 6, column 10, lines 60-65*]. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Anerousis' teachings of using at least one server in the network resource with the teachings of Ikeda-Gauvin, for the purpose of improving the ability of a network "...for providing a management information model and a distributed object services model. The models allow for the automatic aggregation of network management information in spatial, temporal and functional forms, and the automatic visualization of managed objects over the world-wide-web." as stated by Anerousis in lines 56-63 of column 4. By this rationale, **claim 10** is rejected.

**Regarding claim 14, 16, 17, 26, 27, 40, and 41:** The combination Ikeda-Gauvin-Anerousis teaches:

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14. The system of claim 1, the output comprising a user customizable output (see Anerousis, column 2, lines 12-20; column 9, lines 44-50).

16. The system of claim 15, the status report relating to at least one selected from the group consisting of system performance data, system health data, and system utilization data (see Anerousis; column 6, lines 36-57).

17. The system of claim 1, the output comprising at least one schema table to provide optimal access of data relating to the output (see Anerousis; see abstract).

26. The system of claim 25, the health status state comprising at least one selected from the group consisting of a previous health status state, a current health status state, and a future health status state (0035-0037; 0135;0170, 0200; 0245; and see Anerousis, column 2, lines 12-20; column 9, lines 44-50).

27. The system of claim 1, at least a portion of the system data corresponding to the plurality of system components is generated by at least one selected from the group consisting of a health monitor, a performance monitor, and a utilization monitor (0035-0037; 0135;0170, 0200; 0245; see Anerousis, column 2, lines 12-20; column 9, lines 44-50).

40. A device employing the method of claim 28 comprising at least one selected from the group consisting of a computer, a server, and a handheld electronic device (see

*Anerousis; fig. 6, column 10, lines 60-65).*

41. A device employing the system of claim 1 comprising at least one selected from the group consisting of a computer, a server, and a handheld electronic device. (*see Anerousis; fig. 6, column 10, lines 60-65).*

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-

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3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

July 12, 2007



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100